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Honorable Clifton Cislak

Clerk of the U.S. Court of Appeals for the D.C. Circuit

333 Constitution Ave NW

Washington, DC 20001

Re: *Harris v. Bessent*, 25-5055 (D.C. Cir.)

Dear Mr. Cislak,

Pursuant to Federal Rule of Appellate Procedure 28(j), we write to inform the Court that the Supreme Court recently granted certiorari before judgment in *Slaughter v. Trump*, No. 25-____ (D.C. Cir), an appeal involving a member of the Federal Trade Commission. That case raises the question of whether and to what extent the Supreme Court should overturn *Humphrey's Executor*.

We respectfully suggest that the Court may wish to expedite its decision in this case. Doing so would present the Supreme Court with the benefit of this Court's analysis and the opportunity to evaluate an entity, the Merit Systems Protection Board, that is meaningfully distinct from the Federal Trade Commission in ways that implicate the core of the rationale for *Humphrey's Executor*.

Indeed, it is notable that the Merit Systems Protection Board performs none of the non-adjudicatory functions that the government now claims render the Federal Trade Commission unconstitutional. For example, the Merit Systems Protection Board does not (i) "initiate judicial proceedings against private parties"; (ii) wield "significant rulemaking authority"; (iii) "investigate potential violations"; or (iv) exercise "substantial foreign-relations powers." Application at 12-15, *Trump v. Slaughter*, No. 25A264 (U.S., Sept. 4, 2025).

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As a result, the Supreme Court may benefit from having this Court's analysis of the removal standards for the Board—which is a truly adjudicatory body—when it considers the continued validity of *Humphrey's Executor*. We respectfully request the Court to decide this case at its earliest possible convenience.

Respectfully submitted,

/s/ Neal Kumar Katyal
NEAL KUMAR KATYAL

Counsel for Cathy Harris

cc: Counsel of record